

to \$100 monthly. Where a veteran is in receipt of improved pension, the applicable aid and attendance rate shall be reduced to the otherwise applicable rate under 38 U.S.C. 1521(e). No reduction shall be made, however, for any case involving the disabilities specified in paragraph (a)(2) of this section.

(f) Where entitlement to the rate in 38 U.S.C. 1114(o) is based in part on need for regular aid and attendance reduction because of being hospitalized will be to the rate payable for the other conditions shown.

(g) Where a veteran entitled to one of the rates under 38 U.S.C. 1114 (l), (m), or (n) by reason of anatomical losses or losses of use of extremities, blindness (visual acuity 5/200 or less or light perception only), or anatomical loss of both eyes is being paid compensation at the rate under 38 U.S.C. 1114(o) because of entitlement to another rate under section 1114(l) on account of need for aid and attendance, the compensation will be reduced while hospitalized to the following:

(1) If entitlement is under section 1114(l) and in addition there is need for regular aid and attendance for another disability, the award during hospitalization will be at the rate under 38 U.S.C. 1114(m) since the disability requiring aid and attendance is 100 percent disabling.

(Authority: 38 U.S.C. 1114(p))

(2) If entitlement is under section 1114(m), at the rate under 38 U.S.C. 1114(n).

(3) If entitlement is under section 1114(n), the rate under 38 U.S.C. 1114(o) would be continued, since the disability previously causing the need for regular aid and attendance would then be totally disabling entitling the veteran to the maximum rate under 38 U.S.C. 1114(p).

(h) If, because of blindness, a veteran requires regular aid and attendance, but has better vision than "light perception only" the award under 38 U.S.C. 1114(m) will be reduced while hospitalized to the rate payable under 38 U.S.C. 1114(l).

(i) If the disability meets the aid and attendance requirements of 38 U.S.C. 1114(l) and the intermediate or next higher rate was assigned for disability

independently ratable at 50 percent or 100 percent, the award based on such entitlement will be reduced because of hospitalization to the amount payable under 38 U.S.C. 1114(s).

(j) The section 306 pension aid and attendance allowance authorized by § 3.252(f) is subject to reduction for hospitalization under the provisions of this section in the same manner as the regular section 306 pension aid and attendance allowance. The amount payable shall not be reduced to less than the housebound rate of \$61 monthly (or \$76.25 monthly if the veteran was age 78 or older on December 31, 1978).

(k)(1) This paragraph is applicable to hospitalized veterans who were not entitled to the aid and attendance allowance prior to hospital admission but who establish entitlement to it on or after the date of hospital admission.

(2) If the effective date of entitlement to the aid and attendance allowance is on or after the date of admission to hospitalization, the aid and attendance allowance shall not be paid until the date of discharge or release from hospitalization, unless the aid and attendance allowance is based on a disability specified in paragraph (a)(2) of this section. If the aid and attendance allowance is based on a disability specified in paragraph (a)(2) of this section, the aid and attendance allowance shall be paid during hospitalization.

(3) If the aid and attendance allowance is not payable to a veteran under paragraph (k)(2) of this section, the veteran shall receive the appropriate reduced rate under paragraphs (d) through (j) of this section while hospitalized.

[28 FR 1588, Feb. 20, 1963, as amended at 30 FR 14983, Dec. 3, 1965; 32 FR 13226, Sept. 19, 1967; 37 FR 19133, Sept. 19, 1972; 38 FR 34115, Dec. 11, 1973; 41 FR 55875, Dec. 23, 1976; 44 FR 22721, Apr. 17, 1979; 44 FR 45941, Aug. 6, 1979; 46 FR 31011, June 12, 1981; 46 FR 47541, Sept. 29, 1981]

§§ 3.553–3.555 [Reserved]

§ 3.556 Adjustment on discharge or release.

(a) *Temporary Absence—30 days.* (1) Where a competent veteran whose award was reduced under § 3.551(b) is placed on non-bed care status or other authorized absence of 30 days or more

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the full monthly rate, excluding any allowance for regular aid and attendance, will be restored effective the date of reduction. The full monthly rate for an incompetent veteran, or for a competent veteran whose pension was reduced under § 3.551(c), will be restored effective the date of departure from the hospital unless it is determined that apportionment for a spouse should be continued. In all instances, any allowance for regular aid and attendance will be restored effective the date of departure from the hospital.

(2) Upon the veteran's return to the hospital, an award which is subject to reduction under § 3.551 (b) or (c) will again be reduced effective the date of the veteran's return to the hospital. In all instances, any allowance for regular aid and attendance will be discontinued, if in order, effective the date of the veteran's return to the hospital.

(b) *Temporary absence—less than 30 days.* A temporary absence of less than 30 days, including the day of departure, will not require adjustment of the award. This applies to any approved absence. Any allowance for regular aid and attendance for such periods will be authorized after the veteran has been discharged from the hospital.

(c) *Adjustment based on need.* Where an award of pension was reduced under § 3.551(c), the full rate covering absences of less than 30 days may be restored, subject to prior payments, prior to discharge from hospitalization at the request of the Director of the hospital, center or domiciliary, where this action is necessary to meet the veteran's financial needs, if the veteran has been hospitalized for more than 6 months and the periods of absence exceed a total of 30 days.

(d) *Irregular discharge.* When a competent veteran is given an irregular discharge, the full rate will be restored effective the date of release from the hospital. Payment of any amount withheld under § 3.551(b) will not be authorized until the expiration of 6 months after termination of hospitalization unless the prior release is changed to a regular release. However, amounts not paid under paragraph (c) of this section covering absence of less than 30 days where the award was reduced under

§ 3.551(c) will be authorized immediately.

(e) *Regular discharge.* When a veteran, either competent or incompetent, is given a regular discharge or release, the full rate, including any allowance for regular aid and attendance will be restored effective the date of release from the hospital, subject to prior payments. The award will be based on the most recent rating and, where the award was reduced under § 3.551(b), will include, in the case of a competent veteran, any amounts withheld because of hospitalization. The amount withheld for an incompetent veteran will not be authorized until the expiration of 6 months following a rating of competency by VA. Any institutional award will be discontinued effective date of last payment, as provided in § 3.501(j). Where an apportionment made under § 3.551(c) is not continued, the apportionment will be discontinued effective the day preceding the date of the veteran's release from the hospital, or, if adjusted, effective the date of the veteran's release from the hospital, unless an overpayment would result. In the excepted cases, the awards to the veteran and apportionee will be adjusted as of date of last payment.

(Authority: 38 U.S.C. 5503)

(f) *Types of discharges.* A discharge is considered regular if it is granted because of having received maximum hospital benefits. A discharge for disciplinary reasons or because of the patient's refusal to accept, neglect of or obstruction of treatment; refusal to accept transfer, or failure to return from authorized absence, is considered irregular.

[27 FR 7678, Aug. 3, 1962, as amended at 27 FR 8794, Sept. 1, 1962; 38 FR 34115, Dec. 11, 1973; 39 FR 34532, Sept. 26, 1974; 40 FR 45169, Oct. 1, 1975; 44 FR 22721, Apr. 17, 1979; 44 FR 45942, Aug. 6, 1979; 50 FR 50616, Dec. 11, 1985]

§ 3.557 Incompetents; estate equals or exceeds statutory limit and institutionalized.

(a) Where a veteran having neither spouse, child, nor dependent, is being